

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT HOLMES,

Plaintiff,

v.

PEREZ, et al.,

Defendants.

No. 1:21-cv-01367-DAD-BAM (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS

(Doc. No. 17)

Plaintiff Robert Holmes is a former state prisoner proceeding *pro se* in this civil rights action filed pursuant to 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 28, 2022, the assigned magistrate judge issued findings and recommendations, recommending that this action proceed only on plaintiff's excessive force in violation of the Eighth Amendment claims against defendants Perez and Rocha and that all other claims and defendants be dismissed due to plaintiff's failure to state claims upon which relief may be granted. (Doc. No. 14.) Plaintiff was directed to file any objections within fourteen (14) days of service of the findings and recommendations. (*Id.* at 9.)

Plaintiff filed a notice of change of address on January 31, 2022. (Doc. No. 15.) The pending findings and recommendations were re-served on plaintiff at his new address of record. However, on February 11, 2022, the findings and recommendations that were served on plaintiff

1 at his new address were returned as “Undeliverable, Attempted-Not Known, Unable to Forward.”
2 Plaintiff has not responded to the findings and recommendations, filed a new notice of change of
3 address, or otherwise communicated with the court.

4 Therefore, on May 2, 2022, the assigned magistrate judge issued findings and
5 recommendations, recommending that this action be dismissed, without prejudice, due to
6 plaintiff’s failure to prosecute. (Doc. No. 17.) Those findings and recommendations were again
7 served on plaintiff and contained notice that any objections thereto were to be filed within
8 fourteen (14) days after service. (*Id.* at 3.) No objections have been filed with the court, and the
9 deadline to do so has now passed.

10 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a
11 *de novo* review of the case. Having carefully reviewed the entire file, the court concludes that the
12 magistrate judge’s findings and recommendations are supported by the record and by proper
13 analysis.

14 Accordingly,

- 15 1. The findings and recommendations issued on May 2, 2022 (Doc. No. 17) are
16 adopted;
- 17 2. This action is dismissed, without prejudice, due to plaintiff’s failure to prosecute;
18 and
- 19 3. The Clerk of the Court is directed to close this case.

20 IT IS SO ORDERED.

21 Dated: **August 1, 2022**

22 
UNITED STATES DISTRICT JUDGE